

Appl. No. 09/929,606  
Amdt. dated 4/12/2006  
Reply to the Office Action of 02/27/2006

### **REMARKS/ARGUMENTS**

Reexamination and reconsideration of this application as amended is requested. By this amendment, claims 13 and 21 are canceled without prejudice. By this amendment, claims 3, 12, 20, 22 and 38 are amended. No new claims are added. After this amendment, claims 3-12, 14, 20, 22, 25-30 and 38-39 remain pending in the application.

Minor changes to the specification have been made. The changes are editorial in nature, such as grammatical, punctuation, spacing, capitalization, etc., to correct errors and to enhance the readability of the specification. No new matter was added.

As suggested by the Examiner via a telephone call on April 11, 2006, the information in the paragraph entitled "Cross-Reference To Related Application" has been updated.

### **Claims Rejection under 35 U.S.C. §102**

The Examiner rejected claims 3-11, 12-14, 20-22, 25-30 and 38-39 under 35 U.S.C. §102(e), as being anticipated by Eyal (U.S. Patent 6,389,467).

Independent claim 3 has been amended to more clearly recite the invention. The limitation that has been added to the last element of claim 3, "based upon an aggregate summation of the at least one vote received", is supported in the specification on page 12, lines 18-21. No new matter was added. Eyal fails to disclose all the elements of amended claim 3, including in particular, *"based upon an aggregate summation of the at least one vote received, providing audio to the group of persons in a shared acoustical environment, the audio corresponding to the at least one audio file being rendered"*, as recited in the last step of amended claim 3.

Eyal discloses a method of searching for streaming media on a network such as the Internet, and a method of facilitating the playing back of such streaming media

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individually to individual users on the terminal of each user in a separate environment of each user. Nowhere in Eyal is there taught the concept of playing audio files to a group of persons in a shared acoustical environment.

Therefore, in view of the amendment to claim 3 and the remarks above, applicants believe that the rejection of amended claim 3 under 35 U.S.C. §102(e) has been overcome.

Because claims 4-11 depend from amended claim 3, and because dependent claims recite all the limitations of the independent claim, it is believed that claims 4-11 recite in allowable form. Therefore, applicants also believe that the rejection of claims 4-11 under 35 U.S.C. §102(e) has been overcome.

Reconsideration of the rejection of independent claim 12 is respectfully requested in view of the amendment to claim 12. By this amendment, claim 13 was canceled, and the limitations of claim 13 were added to independent claim 12. Moreover, Eyal fails to disclose the "*contemporaneous with the step of rendering the audio file, providing audio in a shared acoustical environment, the audio corresponding to the audio file being rendered*", as recited in the last step of amended claim 12. Therefore, in view of the remarks above, applicants believe that the rejection of claim 12 under 35 U.S.C. §102(e) has been overcome. Nowhere in Eyal is there taught the concept of playing audio files to a group of persons in a shared acoustical environment. Therefore, in view of the amendment to claim 12 and the remarks above, applicants believe that the rejection of amended claim 12 under 35 U.S.C. §102(e) has been overcome.

Because claim 14 depends from claim 12, and because a dependent claim recites all the limitations of the independent claim, it is believed that claim 14 recites in allowable form. Therefore, applicants also believe that the rejection of claim 14 under 35 U.S.C. §102(e) has been overcome.

Reconsideration of the rejection of independent claim 20 is respectfully requested in view of the amendment to claim 20. By this amendment, claim 21 was canceled, and the limitations of claim 21 were added to independent claim 20. Furthermore, Eyal fails to disclose the "*contemporaneous with rendering the audio file, providing audio in a shared acoustical environment, the audio corresponding to the audio file being*

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*rendered*", as recited in the last step of amended claim 20. Therefore, in view of the remarks above, applicants believe that the rejection of claim 20 under 35 U.S.C. §102(e) has been overcome. Nowhere in Eyal is there taught the concept of playing audio files to a group of persons in a shared acoustical environment. Therefore, in view of the amendment to claim 20 and the remarks above, applicants believe that the rejection of amended claim 20 under 35 U.S.C. §102(e) has been overcome.

Claim 22 was amended so that its preamble agrees with the preamble of amended claim 20. Because claim 22 depends from claim 20, and because a dependent claim recites all the limitations of the independent claim, it is believed that claim 22 recites in allowable form. Therefore, applicants also believe that the rejection of claim 22 under 35 U.S.C. §102(e) has been overcome.

Applicants respectfully disagree with the Examiner's rejection of independent claim 25. Eyal fails to disclose "*an audio player manager . . . for providing audio in a shared acoustical environment, the audio corresponding to the at least one audio file being rendered*", as recited in lines 20-21 of claim 25. Nowhere in Eyal is there taught the concept of playing audio files to a group of persons in a shared acoustical environment. Therefore, in view of the remarks above, applicants believe that the rejection of claim 25 under 35 U.S.C. §102(e) has been overcome.

Because claims 26-30 depend from amended claim 25, and because dependent claims recite all the limitations of the independent claim, it is believed that claims 26-30 recite in allowable form. Therefore, applicants also believe that the rejection of claims 26-30 under 35 U.S.C. §102(e) has been overcome.

Independent claim 38 has been amended to correct a minor informality. Applicants respectfully disagree with the Examiner's rejection of independent claim 38. Eyal fails to disclose "*a virtual jukebox application for . . . providing audio in the shared acoustical environment through the speaker by which all users can hear the same audio at the same time, the audio corresponding to the audio file of the playback request*", as recited in lines 19-21 of claim 38. Nowhere in Eyal is there taught the concept of playing audio files to a group of persons in a shared acoustical environment. Therefore, in view of the remarks

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above, applicants believe that the rejection of claim 38 under 35 U.S.C. §102(e) has been overcome.

Because claim 39 depends from claim 38, and because a dependent claim recites all the limitations of the independent claim, it is believed that claim 39 recites in allowable form. Therefore, applicants also believe that the rejection of claim 39 under 35 U.S.C. §102(e) has been overcome.

### Conclusion

The foregoing is submitted as a full and complete response to the Office Action mailed February 27, 2006, and it is suggested that claims 3-12, 14, 20, 22, 25-30 and 38-39 are in condition for allowance. Reconsideration of the rejection is requested. Allowance of claims 3-12, 14, 20, 22, 25-30 and 38-39 is earnestly solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

Applicants acknowledge the continuing duty of candor and good faith to disclose information known to be material to the examination of this application. In accordance with 37 CFR §1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment are limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the applicants and their attorneys.

The present application, after entry of this amendment, comprises twenty-one (21) claims, including five (5) independent claims. Applicants have previously paid for thirty-seven (37) claims including eight (8) independent claims. Applicants, therefore, believe that an additional fee for claims amendment is currently not due.

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**If the Examiner believes that there are any informalities that can be corrected by Examiner's amendment, or that in any way it would help expedite the prosecution of the patent application, a telephone call to the undersigned at (561) 989-9811 is respectfully solicited.**

The Commissioner is hereby authorized to charge any fees that may be required or credit any overpayment to Deposit Account 50-1556.

In view of the preceding discussion, it is submitted that the claims are in condition for allowance. Reconsideration and re-examination is requested.

Respectfully submitted,

Date: April 12, 2006

By: \_\_\_\_\_

  
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